

PATENT
Attorney Docket No. 5725.0806-00
Application No. 09/733,896

Group II: Claims 282-285 and 287, drawn to a "foundation, a lipstick, skin [care] formula etc."

Applicants respectfully traverse the restriction requirement. However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, the invention of

Group I, claims 1-281, 286, and 288-299.

Applicants refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs the Examiner as follows

If the search and examination of an entire application can be made without serious burden, the Office must examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not demonstrated that examining Groups I and II together will constitute a serious burden, despite the assertion that they are "mutually exclusive." Applicants respectfully submit that a search of Groups I and II would not be burdensome, as all of the claims recite a composition comprising a combination of at least one liquid fatty phase comprising at least one structuring polymer comprising a polymer skeleton comprising at least one hydrocarbon-based repeating unit comprising at least one hetero atom and at least one oil-soluble polymer chosen from alkyl celluloses and alkyl guar gums. Thus, the search and examination of Group I should fully encompass the necessary search and examination for Group II. Applicants respectfully submit that the restriction requirement is in error, and request that the requirement be withdrawn.

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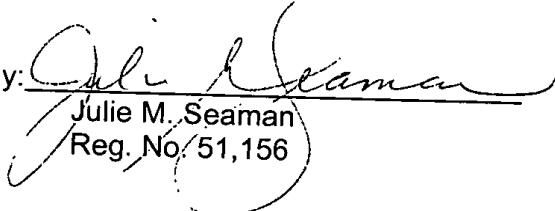
In view of the foregoing remarks, Applicants respectfully submit that the restriction requirement is in error and request that the requirement be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: 
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